

<p>Non-Executive Report of the:</p> <p><b>General Purposes Committee</b></p> <p>29 October 2018</p>	
<p><b>Report of:</b> Asmat Hussain, Corporate Director, Governance and Monitoring Officer</p>	<p><b>Classification:</b> Unrestricted</p>
<p><b>Constitution Review Update</b></p>	

<b>Originating Officer(s)</b>	Matthew Mannion, Committee Services Manager Mark Norman, Deputy Monitoring Officer
<b>Wards affected</b>	All wards

### **Executive Summary**

This report provides the General Purposes Committee with an update on the work officers are undertaking to review the Council's Constitution.

The Council's Constitution was updated in phases throughout 2017 with reports presented to a number of General Purposes Committee and Council meetings for agreement. This work ensured that the Constitution provided an accurate and up to date reflection of the Council's governance and decision-making processes as they were at the time.

It is good practise to regularly review a Council's Constitution and so officers have begun the next review phase. In particular, the focus this time is on the readability and effectiveness of the Constitution. Looking at whether information is easy to find and ways of navigating the contents. As part of this work constitutions from a number of other Councils have been used as comparators, with particular focus on those who have modernised their content and style.

In addition, whilst reviewing the constitution it has been noted that it contains a large number of documents that would not normally be considered appropriate to be placed in the constitution, for example the full procedures for a number of boards and panels, or detailed sets of 'Proper Officer' designations. This review will propose that a number of these sections will be moved to being 'supporting documents' of the Constitution.

This work is well underway and examples of the areas being reviewed are described in this report. It is proposed to provide the fully refreshed Constitution for review at the Committee's next meeting.

## **Recommendations:**

The General Purposes Committee is recommended to:

1. Review and note the contents of the report.

### **1. REASONS FOR THE DECISIONS**

- 1.1 The Council continuously reviews its governance arrangements to ensure they are fit for purpose. In particular, the Constitution should be reviewed regularly to ensure it is an effective support to decision making and governance at the Council.
- 1.2 This is also in line with the key recommendations of the Corporate Peer Challenge reported to the Best Value Improvement Board on 17 September 2018 which stated that the Council should 'remove bad bureaucracy whilst retaining good governance'.

### **2. ALTERNATIVE OPTIONS**

- 2.1 The General Purposes Committee could determine that no changes to the Constitution are required. This is not recommended as the Constitution would become a hindrance to good decision making.
- 2.2 Alternatively the Committee could instruct officer to change the emphasis of their review or to look to review certain parts of the Constitution that are not set out below.

### **3. DETAILS OF THE REPORT**

- 3.1 The Local Government Act 2000 requires the Council to prepare and keep up to date a Constitution. Guidance was also issued which requires the Constitution to contain a number of specific items such as Council meeting procedure rules, the role of Councillors and the elected Mayor, and rules relating to finance, contracts and procurement amongst others.
- 3.2 The Constitution was last revised, in stages, through 2017 with a number of reports taken to General Purposes Committee and Council for agreement.
- 3.3 It is considered best practice to regularly review the Constitution, both to update any changes since the last review and also to consider how effective and efficient the document is in setting out the Council's governance and decision making processes and procedures.

3.4 For this review officers have paid particular attention to the 'look and feel' of the Constitution. At nearly 600 pages the current constitution is a very large document. The review has carefully considered whether the information contained within it can be set out in new ways to make it easier to follow and reduce duplication. Example Constitutions from authorities such as Birmingham City Council have been used in the review.

3.5 A full version of the proposed update will be presented at the next General Purposes Committee meeting, however, the following paragraphs set out the main areas of focus:

### **Look and Feel**

3.6 The Constitution is being revised to give it a simpler style to aid navigation. For example it will be divided into three parts (with 'Sections' being the consistent name for the divisions within each 'Part'):

- Part A - Introduction and Explanations
- Part B – Responsibility for Functions and Decision Making Procedures
- Part C – Codes and Protocols

3.7 Numbering is being simplified with each section of the constitution following in sequence throughout the document and numbering simplified within each Section as well.

3.8 The option of an 'index of terms' is being explored to explain the key terms within the document.

### **Supporting Documents**

3.9 In reviewing the Constitution a number of more detailed sections have been identified that may not be best arranged as part of the document itself. For example, full procedures are set out for several bodies and panels, or the detailed set of 'proper officer' designations. Having this information inside the Constitution means that any changes made require changes to the Constitution.

3.10 The review is therefore looking to recommend that many of these more detailed sets of information become 'supporting documents' to the Constitution. These supporting documents would still be published with the Constitution but as they are not part of it they can be updated as and when required much more easily.

3.11 This should make it much easier to adjust particular procedures where needed and to keep the published versions up-to-date. For example, the current Pensions Board Terms of Reference in the Constitution are very detailed. This means that should the Board wish to update their terms to say they meet 5 times a year instead of 4 or they wish to meet somewhere other than the Town Hall, that would require a change to the Constitution.

- 3.12 The intention is therefore to keep top-level information about the Pensions Board in the Constitution (function, membership, quorum) but place the full procedures in the Constitution's supporting documents.
- 3.13 Government guidance supports this change. Guidance states "that the constitution should be drafted as a flexible document and it should not be necessary to produce a revised version [for example] every time an ad-hoc committee or sub-committee is appointed to undertake a particular task". It is considered that the level of detail set out in some areas is contrary to this recommendation.

### **Key Decision Thresholds**

- 3.14 When the [Local Government Act 2000] set up the Executive arrangements for local authorities it gave particular attention to 'Key Decisions'. These are the 'biggest' decisions that would be taken by the Executive (by the Mayor or the Mayor in Cabinet in this Council's case). Key Decisions were set as being significant in terms of financial savings/expenditure or impact on an area of the Borough. The current definition in the Constitution is:
- 3.15 (i) A "key decision" is an executive decision which is likely
- a) to result in the relevant local authority incurring expenditure which is, or the making of savings which are, significant having regard to the relevant local authority's budget for the service or function to which the decision relates; or
  - b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority.
- 3.16 This is the original definition as set out in the model constitution published in 2000. Since then many authorities (including 20 of the 28 other London authorities that operate Executive models) have felt it useful to add more guidance and/or definition to that summary on the basis that 'significant' is a word open to a wide range of interpretations which leads to confusion and inconsistency in decision making.
- 3.17 The review is considering whether it would be appropriate to add some definition to the Key Decision definition and what form such a definition could take.

### **Scheme of Delegation**

- 3.18 The Constitution includes the Council's 'Scheme of Delegation'. This part of the document sets out the level at which specific decisions can be taken. For example, it explains the areas of responsibility for each Corporate Director and further allows them to delegate areas of decision making to senior officers in their directorates.

- 3.19 The current scheme of delegation has not been reviewed for a number of years. A new high-level scheme will be presented which is simpler to follow and contains only the necessary levels of detail. Further levels of the scheme of delegation are being developed and, once completed, will be added to the 'Supporting Documents' list.

#### **4. EQUALITIES IMPLICATIONS**

- 4.1 The Constitution as a whole must support the Council's responsibility to support equality in all its terms. This is built into the document in a number of places including the Codes of Conduct and the terms of reference for many Committees and Panels.

#### **5. OTHER STATUTORY IMPLICATIONS**

- 5.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:

- Best Value Implications,
- Consultations,
- Environmental (including air quality),
- Risk Management,
- Crime Reduction,
- Safeguarding.

- 5.2 There are no statutory implications specific to this update report. However, these impacts must be considered when reviewing proposed changes to the Constitution.

#### **6. COMMENTS OF THE CHIEF FINANCE OFFICER**

- 6.1 There are no financial implications arising from this report.

#### **7. COMMENTS OF LEGAL SERVICES**

- 7.1 Section 9P of the Local Government Act 2000 (as amended) requires the Council to prepare and keep up to date a constitution.
- 7.2 The constitution must contain the elements identified in the body of the report which were specified by the Secretary of State in the Constitution Direction issued in December 2000.
- 7.3 The constitution must be published and be available for inspection by members of the public.
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## **Linked Reports, Appendices and Background Documents**

### **Linked Report**

- None.

### **Appendices**

- None.

### **Local Government Act, 1972 Section 100D (As amended)**

#### **List of “Background Papers” used in the preparation of this report**

List any background documents not already in the public domain including officer contact information.

- None.

#### **Officer contact details for documents:**

N/A